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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,868	07/23/2003	Martha F. Rowland	030263	8007

26285 7590 04/08/2005

KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP  
535 SMITHFIELD STREET  
PITTSBURGH, PA 15222

EXAMINER
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LEV, BRUCE ALLEN

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/625,868

Applicant(s)

ROWLAND ET AL.

Examiner

Bruce A. Lev

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on March 11, 2005 as an RCE.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-7,9-18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-7,9-18 and 20-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

BRUCE A. LEV  
PRIMARY EXAMINER

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, ***the rung including a plurality of grooves; and wherein the sleeve grooves mating with the grooved portion of the rung***, as set forth in ***claim 22***, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

***Claims 4-7, 12, 13, 17, 18, and 20-22 are rejected*** under 35 U.S.C. ***102(b)*** as being anticipated by the ***German Patent of Berg 4,125,780***.

***Berg sets forth*** a ladder comprising a grooved rung between first and second rails; and a means for covering a "substantial" portion of the rung including a removable rubber sleeve having a slit, and an inner surface with a plurality of grooved and ungrooved portions mating with the grooved portion of the rung.

***Claim Rejections - 35 USC § 103***

***Claims 2, 3, 9-11, 14, 15, 23, and 24 are rejected*** under 35 U.S.C. ***103(a)*** as being unpatentable over ***Berg in view of Feigenbaum 5,437,071***.

***Berg sets forth*** the ladder, as advanced above, except for the sleeve being cylindrical; formed of foam cell rubber; having a weaterproof fabric layer; and having an ungrooved outer surface. However, ***Feigenbaum teaches*** forming a rung covering sleeve as being cylindrical; formed of foam cell rubber; having a weaterproof fabric layer; and having an ungrooved outer surface. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sleeve of Berg by forming it as being cylindrical; formed of foam cell rubber; having a weaterproof fabric layer; and having an ungrooved outer surface, as taught by Feigenbaum, in order to cover the entire surface of the rung with a more comfortable cover that is also resists water.

***Claim 16 is rejected*** under 35 U.S.C. ***103(a)*** as being unpatentable over ***Berg in view of Feigenbaum further in view of Schmitt et al 5,673,768***.

***Berg in view of Feigenbaum set forth*** the rung, as advanced above, except for the fastener. However, ***Schmitt et al teach*** the use of a fastener upon a rung cover. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sleeve of Berg in view of Feigenbaum by including a fastener, as taught by Schmitt et al, in order to more securely removably attach the sleeve to the rung.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (571) 272-6831. The examiner can normally be reached on Mon-Fri., 5:30 AM - 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

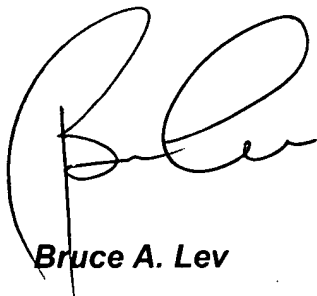
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see

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<http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 6, 2005

A handwritten signature in black ink, appearing to read 'B. Lev', with a large loop at the end.

**Bruce A. Lev**

**Primary Examiner**

**Group 3600**